

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAVID GAVALDON,

No. C 11-03920 YGR (PR)

Plaintiff,

**ORDER OF DISMISSAL WITHOUT
PREJUDICE**

vs.

G. D. LEWIS, et al.,

Defendants.

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On August 10, 2011, Plaintiff, a state prisoner, filed the present *pro se* prisoner complaint under 42 U.S.C. § 1983. He has paid the full filing fee. To date, he has not served any of the named Defendants. Pursuant to Federal Rule of Civil Procedure 4(m), if a complaint is not served within 120 days from the filing of the complaint, it may be dismissed without prejudice for failure of service.


On April 20, 2012, the Court issued an "Order to Show Cause Why Claims Against Unserved Defendants Should Not be Dismissed." The Court directed Plaintiff, who as mentioned above, paid the filing fee in this matter, to either provide the Court with proof of service of the summons and complaint upon the named Defendants against whom he alleges his claims, or otherwise show cause why the complaint should not be dismissed without prejudice as to each unserved Defendant pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. (Apr. 20, 2012 Order at 1-2.) The Court instructed Plaintiff to file proof that he served the named Defendants within thirty days from the date of the Order. (*Id.*)

More than thirty days have passed, and Plaintiff has neither provided the Court with proof of service of the summons and complaint upon the named Defendants, or otherwise shown cause why the complaint should not be dismissed without prejudice for failure of service. Accordingly, all claims against all unserved named Defendants are DISMISSED without prejudice under Rule 4(m). As no Defendants remain in this case, Plaintiff's entire action is also hereby DISMISSED without

1 prejudice. The Clerk of the Court shall enter judgment, terminate all pending motions, and close the
2 file.

3 IT IS SO ORDERED.

4 DATED: May 25, 2012


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

United States District Court
For the Northern District of California